



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/518,444	12/20/2004	Wataru Matsumoto	2611-0228PUS1	7790

2292 7590 05/10/2006

BIRCH STEWART KOLASCH & BIRCH
PO BOX 747
FALLS CHURCH, VA 22040-0747

EXAMINER

RIZK, SAMIR WADIE

ART UNIT	PAPER NUMBER
----------	--------------

2133

DATE MAILED: 05/10/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/518,444

Applicant(s)

MATSUMOTO, WATARU

Examiner

Sam Rizk

Art Unit

2133

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 20 December 2004.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-12 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-12 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 20 December 2004 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 12/20/2004.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTIONS

- Claims 1-12 have been submitted for examination
- Claims 1-12 have been rejected

Specification

1. The disclosure is objected to because of the following informalities:
"Caylay" is misspelled in several locations in page 11 and other locations. The correct spelling is "Cayley".
Appropriate correction is required.

Claim Objections

2. Claim 7 is objected to because of the following informalities:
"Caylay" is misspelled in page 42, lines 17 and 24. The correct spelling is "Cayley".
Appropriate correction is required.
3. Same objection for claim 12, lines 7 and 13 as per claim 7.
"Caylay" is misspelled in page 42, line 24. The correct spelling is "Cayley".
Appropriate correction is required.

Drawings

4. Figures 13-15 should be designated by a legend such as --Prior Art-- because only that which is old is illustrated. See MPEP § 608.02(g). Corrected drawings in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. The replacement sheet(s) should be

Art Unit: 2133

labeled "Replacement Sheet" in the page header (as per 37 CFR 1.84(c)) so as not to obstruct any portion of the drawing figures. If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Double Patenting

The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and, *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

5. Claims 1, 2 and 7 are provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1, 2 and 9 of copending Application No. 10/482,815. Although the conflicting claims are not identical they are not patentably distinct from each other because the claims of the instant application anticipate the claims of application 10/435,140.
6. Claims 11 and 12 are provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 9 and

10 of copending Application No. 10/482,815. Although the conflicting claims are not identical they are not patentably distinct from each other because the claims of the instant application anticipate the claims of application 10/482,815.

"A Later patent claim is not patentably distinct from an earlier patent claim if the Later claim is obvious over, or anticipated by, the earlier claim. In re Longi, 759 F.2d at 896,225 USPQ at 651 (affirming a holding of obviousness-type double patenting because the claims at issue were obvious over claims in four prior ad patents), In re Bern, 140 F.3d at 1437, 46 USPQ2d at 1233 (Fed. Cir. 1998) (Affirming a holding of obviousness- type double patenting where a patent application claim to a genus is anticipated by a patent claim to a species within that genus). " ELI LILLY AND COMPANY v BARR LABORATORIES, INC., United States Court of Appeals for the Federal Circuit, ON PETITION FOR REHEARING EN BANC (DECIDED: May 30, 2001).

Examiner notes the claims 1, 2 and 9 citation of the copending Application No. 10/435,140 and this application claims 1, 2 and 7 are almost the same.

The copending application teaches every limitation in claims 1-8 and 10-13 of the application under examination.

This is a provisional obviousness-type double patenting rejection because the conflicting claims have not in fact been patented.

7. Claims 3-6 depend from claim 1.
8. Claims 8-9 depend from claim 7.

Conclusion

9. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.
- De Souza et al. US patent no. 6789227 teaches system and method for generating low density parity check codes using bit-filling
 - Kurtas et al US publication no. 2002/0188906 method and coding apparatus using low density parity check codes for data transmission.
 - Hassibi et al. US publication no. 2002/0163892 teaches Cayley encoding of unitary matrices for differential communication.
 - Chen US patent 4862463 teaches error correcting code for 8-bit per chip memory with reduced redundancy.
 - Jin et al. US patent no. 6961888 teaches methods and apparatus for encoding LDPC codes.
 - Yang et al. US patent no. 6968491 teaches generating a check matrix for error correction.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Sam Rizk whose telephone number is (571) 272-8191. The examiner can normally be reached on M-F 8-5.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Albert Decady can be reached on (571) 272-3819. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

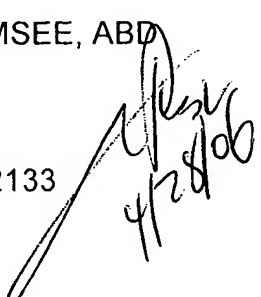
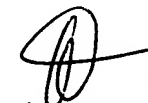
Art Unit: 2133

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronics Business Center (EBC) at 866-217-9197 (toll-free)

Sam Rizk, MSEE, ABD

Examiner

ART UNIT 2133

A handwritten signature in black ink, appearing to read 'Sam Rizk', with a date '4/28/06' written below it.A handwritten signature in black ink, appearing to read 'Guy Lamarre'.

GUY LAMARRE
PRIMARY EXAMINER